

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIAM PAIGE HUNT,

Plaintiff,

v.

WELLS FARGO BANK, NA, et al.,

Defendants.

No. C 10-4438 PJH

**ORDER TO SHOW CAUSE
RE MOTION FOR DEFAULT
JUDGMENT**

The court is in receipt of plaintiff's motion for entry of judgment of default. The motion is styled as a motion for default judgment, although it appears that the plaintiff is in fact seeking that the court "order the court clerk" to enter an order of default as to defendant Wells Fargo Bank.

To the extent that plaintiff seeks entry of default judgment, the court DENIES plaintiff's motion, as it is premature at this juncture. Default judgment may not be entered, as there is no default that has yet been entered, and the entry of default is a prerequisite to the entry of default judgment.

To the extent that plaintiff seeks entry of default, rather than entry of default judgment, on grounds that defendant's recent appearance and filing of a 12(f) motion was untimely – since it was filed more than two weeks after the deadline that defendant's response to plaintiff's complaint was due – the court declines to resolve plaintiff's request without providing defendant with an opportunity to be heard. Accordingly, the court hereby ORDERS defendant Wells Fargo to SHOW CAUSE why default should not be entered against defendant for failure to timely respond to plaintiff's complaint, and notwithstanding defendant's recent appearance in the action.

1 Defendant is further ORDERED to file and serve any opposition to plaintiff's motion
2 no later than November 29, 2010. Plaintiff shall file and serve any reply to defendant's
3 opposition no later than December 6, 2010. The matter will thereafter be submitted for
4 disposition on the papers.

5
6 **IT IS SO ORDERED.**

7 Dated: November 19, 2010



PHYLLIS J. HAMILTON
United States District Judge